

27 June 2019

Health and Safety Representative, ED

Dear

Response to recommendations made under Schedule 2 (1) f of the Health and Safety at Work Act 2015

Following our meeting of 13 June 2019, NMH wishes to respond to your letter of 11 May which made recommendations pursuant to the Health and Safety at Work Act. The recommendations were that the clinical nurse specialist positions be re-established as they were prior to January 2019, that two additional registered nurses work 7 days per week, and one be rostered in the evening and one at night, plus a further RN on the Saturday night shift.

First, we thank you and staff for conveying the perspective of the ED staff and the issues that staff and ED need to deal with and its impact this has on staff. In this context, NMH has been working on initiatives to manage the increase in acuity/demand in ED. We also acknowledge the recommendations.

We have given careful consideration to the recommendations and the types of situations described and the concerns from ED staff. We are taking this very seriously and wish to respond to this by outlining our plan to address the situation. The plan involves a number of initiatives and response measures as follows:

1. Following analysis work done based on VRM we are putting in place a bureau of dedicated FTE to work in areas of high demand in the hospital as and when needed and particularly for hours after the day shift including at nights. The FTE will come from CCDM (which is not currently used in this way). This initiative will closely involve the Nurse Manager Informatics – CCDM () and will commence in the next month. An example of how it will work is:- if ED is in the red then someone from the bureau gets deployed to ED to help ED in times of high demand. The casual pool will continue to be looked after by the Charge Nurse Manager – Patient flow ().
2. Permanent HCA roles have been secured at 1.7 FTE for ED. To add value, these roles are also being reviewed with the potential for extension of scope, e.g., taking blood pressures, temperatures etc.
3. The introduction of MAPU in the next few days (1 July 19) should make a significant difference in terms of reducing the issues noted by ED staff as indicated by the MAPU pilot. MAPU will be reviewed after the first three months and its efficiency and value is expected to increase as it beds down.
4. We have decided to bring forward ED's involvement in the national FTE project established through the MECA negotiations. The timing of ED's involvement in that is to be confirmed.

5. Educators will be assigned back on the floor, including in ED and MAPU to assist in patient care during the winter months.
6. Work has commenced with CNM's, ED and MAPU, and ICU to look at a response from ICU to assist ED staff in ED when appropriate during increased demand in ED.
7. Significant project work is underway on VRM involving the CNM ED and MAPU focussing on appropriate nursing resource and our response to acute pressure and understaffing.
8. NMH is bringing in acute demand patient-flow international and national experts to visit ED and other departments to help assess our situation and potential improvements.

We are happy to talk further with you or staff about this and suggest a review meeting with you in eight to ten weeks' time at a date agreed with you. Please let [REDACTED] and [REDACTED] know of your availability then and we will arrange a date and time with you.

Yours sincerely

[REDACTED]

[REDACTED]

Director of Nursing and Midwifery

cc.

[REDACTED] *Manager Health Safety and Wellbeing*
[REDACTED], *CNM ED and MAPU Nelson*
[REDACTED], *ADON and Operations Manager, Nelson*
[REDACTED], *HR Business Partner*
[REDACTED] *NZNO Organiser*

26 June 2019

ED Health and Safety Representative

Dear

**Formal response to recommendation under the Health and Safety at Work Act 2015
Part 3 – 69 (1)**

Following our meeting of 13 June 2019, NMH wishes to respond to your letter and recommendations.

First, we thank you for conveying the issues that staff and ED need to deal with and the impact this has on staff. Across our system there has been and continues to be work on initiatives to help manage the increase in acuity/demand in ED.

As you will be aware the challenges currently being experienced within ED are multi-factorial and whole of system related and because of this the future focus to resolve these challenges will also be multi-factorial requiring a whole of the hospital response to support ED going forward.

We have given careful consideration to the types of situations conveyed and the concerns from ED staff and wish to respond to this to outline our plan to address the situation. A significant part of that plan is to focus on the barriers to patient flow both into and out of ED and the need to change the way we work together as a system going forward.

The plan involves a number of key initiatives and response measures:

The MAPU business case was focussed on promoting patient flow, reducing demand on the ED by ensuring patients have more timely access to medical assessment and decision making, reduction in non-compliance against 6 hour target, reducing bottle necks within ED and reducing medical outliers to mention a few. The impact of the MAPU 10 week trial showed a positive impact on the hospital flow and in particular ED and given the benefits identified through the post implementation review this business case has now been approved by ELT and the Board to go “live” on 1st July. The implementation of MAPU was based significantly on the impact this area would have in ED by decanting the stable medical acute admissions thereby freeing up more time to focus on the acutely unstable unwell. This will have a demonstrable impact on the activity within ED and will go a long way to support the challenges currently being experienced however, we also acknowledge the fact that this is not the panacea to all challenges.

The decision to have the ED CNM oversee the MAPU was to provide connectivity and oversight between the two areas and ensure that the seamless flow does occur to an area that is staffed and ready to accept. The “pulling” of patients into this area will be a crucial part of that process which the CNM and MAPU team will work closely to achieve

A review of the MAPU performance and impact will occur monthly post implementation to ensure we are meeting the KPI's identified and to iron out any issues that will undoubtedly be uncovered during the initial bedding in phase

Added to the funding of MAPU the following is also work in progress as a result of the communications had to date:

1. Analysis work done based on VRM has led to us putting in place a CCDM bureau of dedicated FTE to provide support at short notice into areas of high demand in the hospital with a particular focus after hours. Thursday through to Monday. Currently the rosters for both the CCDM pool and permanent pool staff are being reviewed to ensure the staff availability matches the time of need for the service to ensure greater ability to respond to VRM as it occurs. This response will be reviewed monthly as to impact within the ED. The casual pool staff will work to support the permanent staff in that after hour period.
2. Permanent HCA roles have been secured at 1.7 FTE for ED. To add value, these roles are also being reviewed with the potential for extension of scope, e.g., taking blood pressures, temperatures etc. Whilst it is appreciated these roles do not provide direct patient care they are able to be tasked to free up time for RNs to focus on the acutely unwell presenting at ED.
3. The introduction of MAPU will provide 10 additional medical beds into the hospital which will create greater flow from the front door. Measuring the appropriate use of MAPU a crucial component of the post implementation phase and will be part of the monthly review process. Whilst there is a "bedding in" process I would expect it to be fully functional and showing benefits to the ED team early within the first month.
4. Currently the CCDM allocation of staff is being reviewed as per plan to ensure the resources are in the right place. The data analysis will give good understanding as to the impact of that allocation. Following analysis discussion will be had with our NZNO partners as to future focus of the FTE.
5. To ensure greater availability of staff across the hospital the Nurse Educators will be assigned on the floor for their full shifts until the end of July and which time we will review the staffing levels, sickness and capacity issues currently being experienced. The will include Nurse Educators in ED and MAPU. By having all educators, across the district supporting the nursing workload on the floor during the day shift it is expected to see a reduction in demand and use of the pool staff to ensure they are available for critical areas of need given they will be assisting in filling roster gaps in their own areas.
6. Work has commenced with CNM ED/MAPU, and ICCU to look at a response from ICCU to assist ED staff in ED when appropriate during increased demand periods.
7. Significant project work is underway on VRM involving the CNM ED / MAPU focussing on appropriate nursing resource and our response to acute pressure and understaffing. This work is underway with the ADON Operations Manager Nelson and once completed will be fed back to the staff.
8. We also have the opportunity to have the national lead for acute service improvement, [REDACTED], visit during July. Both your CNM and HoD are working on a programme for her visit and she will be in the department for at least 2 hours.

From: [REDACTED]
To: [REDACTED]; [REDACTED]
Subject: FW: RE: Request for a meeting
Date: Thursday, 18 July 2019 1:49:59 PM

FYI

[REDACTED]

From: [REDACTED]
Sent: Thursday, 18 July 2019 1:50 PM
To: [REDACTED]
Subject: RE: Request for a meeting

Dear [REDACTED]

As per the Act we believe we are responding in a reasonable time.

We are gathering information to address the concern raised.

We value the consultation process and we are committed to the consultation process

And we will be organising a meeting as soon as possible.

If [REDACTED] wants to meet with someone from the DHB. I have been in contact with [REDACTED]

Our Manager of Health and Safety Wellbeing, [REDACTED] extension [REDACTED] and [REDACTED] has advised me that [REDACTED] will be available if

[REDACTED] would like to discuss this matter with [REDACTED] today.

Please send my your availability over the next 2-3 weeks for a meeting. In order to line up diaries and schedule a future meeting to progress this discussion.

Kind Regards,

[REDACTED]

Associate Director of Nursing & Operations Manager
Nelson Hospital
Nelson Marlborough Health
Cell- [REDACTED]
Email: [REDACTED] [@nmdhb.govt.nz](mailto:[REDACTED]@nmdhb.govt.nz)

Fax: [REDACTED]

Phone: [REDACTED]

Private Bag 18
Nelson, New Zealand

24 July 2019

[REDACTED]
Health and Safety Representative
Emergency Department
Nelson Hospital
By email [REDACTED] [@nmdhb.govt.nz](mailto:[REDACTED]@nmdhb.govt.nz)

Dear [REDACTED]

We acknowledge receipt of your provisional improvement notice issued on 19 July 2019.

We were surprised to have received this notice and we have had to take advice about this. We understand that the consequences of not complying with your notice can be serious. While we acknowledge and understand the concerns you had raised, we were not aware of your proposal to issue this notice. We refer you to section 69(3) of the Health and Safety at Work Act. This requires you to consult with us about the proposed issue of the formal notice. Consultation on the issues you raise is a two-way street and we remain committed to doing that, and we ask that you remain committed to an ongoing dialogue to address the issues you raise.

We do acknowledge the issues you have raised previously, and you have our response to those to date. The issues you raise are complex. We are committed to safe staffing levels for nurses in ED, as well as across the DHB for all our staff.

Regrettably the solution may not be as simple as adopting your recommendations. We do welcome your input including making those recommendations and on other health and safety matters. We are working to respond to your letter of 3 July 2019, and will have that to you in due course, and will continue to consult with you about health and safety matters.

We also note that you are required to provide at least eight days after the notice is issued for us to comply and you have barely given us six days to respond. In addition the suggestion you make that we have contravened the Act is not set out in detail in the notice, and we would like to better understand your grounds for issuing this.

Despite the defects in the notice, we wish to meet with you to discuss the issues you have raised. As you have only given us until 26 July 2019 to comply, we need to meet with you urgently.

In the circumstances we ask that you cancel the notice.

However, if you are unwilling or unable to cancel the notice, our only option under the Act (section 79) is to apply for a review of the notice as the timeframes for doing so are strict.

Could you please call me or email me to set up a time to meet.

Yours faithfully

[REDACTED]
General Manager Clinical Services
NMDHB

From: [REDACTED]
To: [REDACTED]
Subject: review of a PIN [UNCLASSIFIED]
Date: Friday, 26 July 2019 4:31:21 PM
Attachments: [image001.gif](#)
[image002.gif](#)
[image003.gif](#)
[image004.gif](#)
[image005.gif](#)

Good afternoon [REDACTED] Thanks for your notification to review the PIN issued to you in regards to the emergency department. This is to let you know that we have received your notification and I have allocated this work to an inspector, Sue Cunningham. Sue will be in touch with you next week. In the meantime we confirm we will stay the notice until the review is complete.

Nga mihi

[REDACTED]
**Manager, General Inspectorate
Nelson Marlborough**

[REDACTED], Level 1, Monro Building, Nelson 7010

P +64 3 989 2944

M +64 027 440 2055

E [REDACTED] [@worksafe.govt.nz](mailto:[REDACTED]@worksafe.govt.nz)

W www.worksafe.govt.nz



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26 July 2019

██████████
Associate Director of Nursing and Operations Manager
Nelson Hospital
By email: ██████████@nmdhb.govt.nz

Dear ██████████

In response to your letter to ██████████, ED Health and Safety Representative dated 24 July 2019.

Firstly, NZNO is disappointed to have received feedback from ██████████ on the way ██████████ was approached to meet with you, with urgency and at short notice, on Wednesday. This was a very distressing and upsetting situation for you to put ██████████ in.

NMDHB are aware NZNO have been working with ██████████ and had attended meetings with ██████████ in relation to this matter. Despite our close and ongoing professional relationship, no attempt was made to contact NZNO to attend this meeting. The letter requests ██████████ attend a meeting with you however, the letter was not presented to ██████████ until she arrived at the meeting.

It is completely inappropriate that NMDHB cancel meetings that have been scheduled in advance and your indication that you need to seek further advice before meeting (meeting scheduled 18 July 2019) and do not afford your staff and elected Health and Safety Representatives the same courtesy.

It is agreed consultation around an issue is a two way street and ██████████ and NZNO also remain committed to an ongoing dialogue. However, your response has highlighted NMDHB ongoing refusal to deal with the substantive issues that have been raised.

██████████ has agreed to amend the dates on the PIN that has been issued, as per Section 73 (b) of the Health and Safety at Work Act 2015. The revised date identified is now 31 July 2019.

To confirm, the PIN has not been cancelled. Both your request for the PIN to be cancelled and the situation described above contravene section 92 (1) of the Act.

██████████ has consulted with you before issuing the PIN, as per Section 69(3) of the Health and Safety at Work Act 2015. NMDHB have been given reasonable opportunity to address these concerns, including raising issues through Health and Safety Committee meetings, Health and Safety Management meetings, letters of recommendation and meeting with NMDHB to discuss the health and safety issues that have been raised and the accompanying recommendations. More recent events are detailed below and do not include reference to consultation through Health and Safety Committee meetings, Health and Safety Management Meetings or letters of recommendation sent in 2018.

The letter of recommendation dated 11 May 2019 was not responded to within the reasonable timeframe of three weeks, stated by HSR [REDACTED]. A meeting was requested by you for 6 June 2019 to which [REDACTED], [REDACTED], NZNO Organiser, [REDACTED], Health, Safety and Wellbeing Manager and [REDACTED] Acting Charge Nurse Manger Nelson ED attended. 10 minutes after the scheduled start time of the meeting, a third party advised the attendees that the DON, [REDACTED] was not onsite and they were unsure where you were, therefore the meeting was cancelled.

NZNO advised [REDACTED] Health, Safety and Wellbeing Manager, that [REDACTED] had attended the meeting to engage with NMDHB and discuss the concerns raised, as well as the recommendations. As the required NMDHB staff had not attended the meeting they had scheduled, it was appropriate that the next step be for NMDHB to formally respond to the letter of recommendation, noting that the meeting was already scheduled beyond the reasonable timeframe specified in the letter of recommendation.

This did not occur and NMDHB rescheduled the meeting which went ahead on 16 June 2019. NMDHB formally responded to the letter of recommendation in a letter dated 26 June 2019 that was sent 28 June 2019, seven weeks after the letter of recommendation was sent.

[REDACTED] responded to this letter on 3 July 2019 and reiterated the earlier recommendations, highlighting that the immediate staffing concerns that had been raised were not addressed. A follow up meeting was requested by [REDACTED] and was scheduled for 18 July 2019. This meeting was cancelled the day before, where you indicated you had yet to discuss this letter with Manager of Occupational Health and Safety.

It is a concern that, despite NMDHB having received the letter two weeks prior, no internal communication with appropriate staff had occurred. It was requested by NZNO on [REDACTED] behalf, that the meeting be reinstated. This request was declined which lead to the PIN being issued via electronic communication. Following the meeting being cancelled and prior to the PIN being issued, [REDACTED] sought further advice from WorkSafe to ensure [REDACTED] was taking appropriate action in the circumstances. [REDACTED] intention and preference was to discuss the issuing of a PIN with you in person however, was not afforded the opportunity.

The Health and Safety Committee meetings, Health and Safety Management meetings and letters of recommendations clearly identify NMDHB contravention of the Act. This was also discussed in detail, including specific examples, at the meeting on 16 June 2019.

I refer to section 77 of the act, which supports the view that if the reference in the PIN to the letters of recommendation is a defect, this does not render the PIN invalid. The letters of recommendation is referenced in the PIN and NMDHB have sufficient information to understand the grounds for issuing this PIN. [REDACTED] would have been able to further discuss this with NMDHB on 18 July 2019 if the meeting had been reinstated as requested.

We remain committed to working together to resolve the concerns that have been raised and encourage NMDHB to take steps under section 79 of the Act, if that is required.


Kind regards,


NZNO Organiser

CC:

, , , 

From: [REDACTED]
To: [REDACTED]
Subject: RE: ED staff texts
Date: Monday, 12 August 2019 2:25:54 PM
Attachments: [image001.jpg](#)
[Copy of eTXT-summary - Copy.xlsx](#)

Hi [REDACTED]

Frequency report attached (as you can see it is significant)

There is a script for the wording, however it is possible that not all nurses use this script in the pressure of the situation. When I hear of texts different to the suggested being sent out I remind staff.

The wording is "ED demand significantly exceeds capacity. If you are able to assist please phone xx"

The group text only goes to those staff who agree to have their names on the list. I think it usually goes to all staff regardless of shifts. If they request I will take their name off while on leave, but otherwise I don't have time to be constantly monitoring this.

I don't use the group text during week days, as I am able to look and see who is a possibility and then I text them separately. The staff afterhours don't have time to do this.

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Friday, 9 August 2019 4:27 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: ED staff texts

Hi [REDACTED]

As part of the ongoing consultation into ED staffing concerns the issue of communications was raised. Can you report back with detail on the following:

- What wording is used when group texts are sent. Is it fixed or adjusted for the occasion. I have heard the language or tone could sound like pleading or insistent.
- How often are texts sent. Maybe just report the number of texts in the last 3 months"
- How many texts on average or a maximum in the one day
- Who is on the text list.
- Does the text list get adjusted if staff are on leave or on opposite shift (worked a night shift and called for a busy day shift) or is it to everyone on the list?

Sorry for the late notice but I'm hoping for something to discuss on Monday.

Kindest Regards

[REDACTED]

[@nmdhb.govt.nz](mailto:[REDACTED]@nmdhb.govt.nz)

Health, Safety and Wellbeing Manager
Nelson Marlborough Health

DD: [REDACTED] Mob: [REDACTED] Int Ext [REDACTED]

NMH-Values-E-Sig



		Jan	Feb	Mar	Apr	May	Jun
Incoming messages		2	3	2	0	1	0
SMS Parts Sent		642	656	730	379	908	1036
Message Recipients		617	619	730	379	908	1036
Not Recived		0	1	0	0	0	0
Received		574	571	671	348	854	950
Sent		43	44	59	31	54	86
Expired		0	3	0	0	0	0

To							
Channel	Type	Count					
SMS	Incoming messages	2	3	2	0	1	0
SMS	Message Recipients	617	619	730	379	908	1036
SMS	SMS Parts Sent	642	656	730	379	908	1036

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: H+S recommendation follow up meeting 7 August.
Date: Wednesday, 14 August 2019 6:28:02 PM

Hello [REDACTED]

Thank you for asking me to meet with you 7 August. While you discussed expected VRM/ resource team FTE, you gave no clear answer to confirm how I as ED HSR and the ED team can have confidence that the revamped VRM will operate differently. Increased base (establishment) staff in ED was declined by you as something you would explore as a solution, stating you need to resolve wider system problems. You gave no timeframe to reviewing or reinstatement of the CNS, or time specific dates for review of MAPU. In the recommendation I expressed concerns re safe workload for nurses and care for patients and that the immediate issues have not been addressed.

(1)A PCBU must ensure, so far as is reasonably practicable, the health and safety of—

(a)workers who work for the PCBU, while the workers are at work in the business or undertaking; and

(b)workers whose activities in carrying out work are influenced or directed by the PCBU, while the workers are carrying out the work.

(2)A PCBU must ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out

The above (2) also includes patients and not just staff.

Nurses floated to ED must be ED confident and competent to care for potentially unstable undiagnosed patients. I understand that not all are triage or resus competent, but it creates further delays for care and risk to patients when nurses aren't able to carry a suitable ED load.

Can you please clarify if you intend to reply via letter to my recommendation of 3 July for me to provide as feed back to the ED team, or am I to summarise and share with the team your conversations with me during the meeting on the 7th?

Thank you

[REDACTED]

From: [REDACTED]
To: [REDACTED]
Subject: FW: interesting youtube ,its not "burnout"
Date: Wednesday, 14 August 2019 10:27:57 PM

Hello [REDACTED]

I know you are very experienced in H+S, but not so much in the health field. A short YouTube that many have fed back to me that it resonated with them.

Thank you [REDACTED]

From: [REDACTED]
Sent: Thursday, 18 April 2019 10:24 PM
To: Emergency Nurses Nelson ; Emergency Admin Nelson ; ED RMO Nelson ; ED SMO Nelson
Subject: interesting youtube ,its not "burnout"

Hello ladies and gentlemen.

Very interesting short YouTube. Expletive alert. (i.e. a bit of swearing).

https://www.youtube.com/watch?v=L_1PNZdHq6Q

[REDACTED]

[REDACTED]
Registered Nurse
Health and safety rep
Emergency Dept
Nelson Hospital
Nelson Marlborough DHB
[REDACTED] [@nmdhb.govt.nz](mailto:[REDACTED]@nmdhb.govt.nz)

From: [NMDHB Communications](#)
To: [REDACTED]
Subject: Fwd: NZHerald query re health and safety notice
Date: Wednesday, 14 August 2019 8:01:45 PM

Hi [REDACTED]

The reporter has repeated [REDACTED] questions. I've said 'we have nothing new to report' but we can expect these questions again.

Can please discuss with [REDACTED] how we might answer them, or issue some information as requested, when WorkSafe have concluded their review?

The point of view to take is: If we were asked these questions under the OIA (which a media enquiry is), how would we respond? What would we be required to disclose?

I'm not sure that we would have to share the PIN, the claims, if WorkSafe does not validate those claims or conclude that there is a problem in need of recommendations.

It will be different if there are actions/recommendations.

Can you please keep me in the loop as you've been doing thank you, about timing of WS 'report (if that's what they're doing) and likely findings so that we can think through a response,

Thanks,
[REDACTED]

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: [REDACTED]
Date: 14/08/19 17:27 (GMT+12:00)
To: NMDHB Communications
Subject: Re: NZHerald query re health and safety notice

Hi [REDACTED]

Just checking in on this review. At the time you couldn't give me any more information until the review was underway - it's nearly two weeks later so am I right to think you would have that information?

If so, is it now possible to answer my original questions? Particularly, what are the terms or the wording of the PIN and what does the DHB need to do to improve - are there minimum staffing levels that are required, etc?

What has Worksafe's response been so far? Has their review been concluded or when is it likely to be concluded?

Thanks,

[REDACTED]

HEALTH REPORTER, NZHERALD

D: [REDACTED] ext [REDACTED] M: [REDACTED]
E: [REDACTED]@nzherald.co.nz



From: [REDACTED] on behalf of NMDHB Communications

Sent: 02 August 2019 12:20

To: [REDACTED]

Subject: RE: NZHerald query re health and safety notice

Hi [REDACTED]

Just to confirm that NMH asked WorkSafe to review the PIN, as stated in our written response given to you yesterday.

Please refer to written statement, regards,

[REDACTED]

From: [REDACTED] **On Behalf Of** NMDHB Communications

Sent: Thursday, 1 August 2019 4:03 PM

To: [REDACTED]

Subject: RE: NZHerald query re health and safety notice

Hi [REDACTED]

Sorry to take so long to get back to you.

We are waiting to hear back from WorkSafe NZ on their review of the PIN. So we can't really say what actions (if any) will be needed or recommended until that process is underway.

Regards,

[REDACTED]

From: [REDACTED] [[mailto:\[REDACTED\]@nzme.co.nz](mailto:[REDACTED]@nzme.co.nz)]

Sent: Wednesday, 31 July 2019 12:02 PM

To: NMDHB Communications <[\[REDACTED\]@nmdhb.govt.nz](mailto:[REDACTED]@nmdhb.govt.nz)>

Subject: Re: NZHerald query re health and safety notice

Hi [REDACTED]

I'm not sure which hospital but I understand it's the Health and Safety representative that would file the PIN.

My source may be wrong however!

Thanks,

[REDACTED]

HEALTH REPORTER, NZHERALD

D: [REDACTED] [REDACTED] [REDACTED]

E: [\[REDACTED\]@nzherald.co.nz](mailto:[REDACTED]@nzherald.co.nz)



From: Stephanie Gray <Stephanie.Gray@nmdhb.govt.nz> on behalf of NMDHB

Communications <comms@nmdhb.govt.nz>

Sent: 31 July 2019 10:01

To: Dubby Henry <Dubby.Henry@nzme.co.nz>

Subject: RE: NZHerald query re health and safety notice

Hi Dubby, this is news to me...

Who would issue a notice like that?

For which hospital? Nelson or Wairau...

Stephanie

From: Dubby Henry [<mailto:Dubby.Henry@nzme.co.nz>]

Sent: Tuesday, 30 July 2019 7:34 PM

To: NMDHB Communications <comms@nmdhb.govt.nz>

Subject: NZHerald query re health and safety notice

Hi Stephanie,

I understand that a Provisional Improvement Notice has been issued to the Nelson Marlborough DHB in the last week or so - suggesting that the hospital environment is unsafe for staff due to workload pressures / short staffing.

Is this accurate?

What are the terms of the PIN and what does the DHB need to do to improve - are there minimum staffing levels that are required?

Happy to take a call to discuss further. I'll be in the office from 12pm and can be contacted on the number below.

Thanks,

DUBBY HENRY

REPORTER, NZHERALD

D: (09)3736482 M: 0275605058

E: dubby.henry@nzherald.co.nz



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MEMO

To:
From: [REDACTED]
Date: 24 September 2019
Subject: ED safety concerns

Hi,

In response to the OIA application re the Provisional Improvement Notice that was issued by the Emergency Department (ED) Health and Safety Representative on the 19th July 2019 we provide the following documents.

Nelson Marlborough District Health Board received the PIN from the ED HSR. The PIN related to concerns about short staffing in the ED department.

The suggested remedial measures in the PIN were referred to WorkSafe. WorkSafe interviewed all parties to determine the facts and make recommendations.

An investigation involving the HSR union and NMDHB management was conducted by WorkSafe New Zealand.

WorkSafe New Zealand determined through the investigation that NMDHB were doing all that is reasonable able to provide safe workplaces and systems of work. As such the PIN was cancelled.

WorkSafe New Zealand did find opportunities for improvement in the way the DHB communicated with the HSR and a review of the Management Health and Safety Committee. This recommendation is being actioned with new processes being drafted for consultation will all effected parties.

Best Regards

[REDACTED]

Manager Health, Safety & Wellbeing

Nelson Marlborough Health

21 August 2019

Nelson Marlborough District Health Board
Braemar Campus,
Waimea Rd, Nelson South,
Nelson 7010

Attn: [REDACTED]

Dear [REDACTED],

Subject: Review of Provisional Improvement Notice (PIN) – Cancellation of PIN

Thank you for your request to review the PIN, issued by [REDACTED] on the 19th July 2019 for "Failure to ensure, as far as it is reasonably practical, the health and safety of emergency department nurses, through sustained sub optimal safe staffing levels".

I have reviewed this PIN under section 80 of the Health and Safety at Work Act 2015 (the Act). Information from both you and the issuing Health and Safety Representative has been taken into consideration.

I have decided to cancel this PIN, under section 81 of the Act, for the following reason(s):

- NMDHB is taking steps to ensure that staffing levels in the Emergency Department and demand on nurses/capacity issues are addressed so far as reasonably practicable

You are entitled under section 131 of the Act to seek a review of this decision. If you wish to do so, you must apply to WorkSafe within 14 days of receiving this notice. To do this, complete the 'Request an Internal Review of a Reviewable Decision' form located on our website.

If you have any queries, please contact me.

Yours sincerely,

[REDACTED]

[REDACTED]

Health and Safety Inspector
WorkSafe New Zealand

DDI: [REDACTED] | Mobile: [REDACTED] | www.worksafe.govt.nz

Email: [REDACTED]@worksafe.govt.nz

IMPROVEMENT NOTICE

This notice is issued pursuant to sections 101 and 116 of the
Health and Safety at Work Act 2015

Notice issued to: Nelson Marlborough District Health Board (NMDHB)

Address: Waimea Road, Nelson

Date of issue: Wednesday, 21 Aug 2019

Time: 1:35 p.m.

Details of person notice left with:

Name: [REDACTED] Position: CEO

Address: Braemar Campus, Waimea Rd, Nelson South, Nelson 7010

I, [REDACTED]

Being an inspector appointed under section 163(1) of the Health and Safety at Work Act 2015 (the Act) reasonably believe that you,

*are contravening a provision of the Act or regulations made under the Act, or

~~*are likely to contravene a provision of the Act or regulations made under the Act~~ (* tick as appropriate)

And require you to remedy this actual or likely contravention, or the things or activities causing or likely to cause a contravention.

Legislative provision being or likely to be contravened:

Health and Safety at Work Act 2015, Section 58(1)

How the legislative provision is being, or is likely to be, contravened:

Conclusion after enquiries:

NMDHB's processes and procedures to engage with workers, including the processes to provide information and feedback to workers on health and safety issues raised, are inadequate.

Recommended prevention or remedial measures:

In consultation with workers/HSR

- Review and implement timeframes/protocols for responding to and communicating the outcome of health and safety issues raised by workers (e.g. through Safety First Incident reporting, by HSCs and HSRs)
- Review and implement enhanced/agreed resolution process
- Review the effectiveness (makeup and function) of the HS management committee

Remedy required within period beginning on date of issue and ending on: 30/01/2020

Postal address: [REDACTED]
Nelson

Inspector's signature:

[REDACTED]

Contact email: [REDACTED]@worksafe.govt.nz

A PERSON ISSUED WITH THIS NOTICE WHO FAILS TO COMPLY WITHIN THE PERIOD SPECIFIED COMMITS AN OFFENCE. A COPY OF THIS NOTICE MUST, AS SOON AS PRACTICABLE, BE DISPLAYED IN A PROMINENT PLACE AT OR NEAR THE WORKPLACE, OR PART OF THE WORKPLACE, AT WHICH WORK IS BEING CARRIED OUT THAT IS AFFECTED BY THE NOTICE. IT IS AN OFFENCE NOT TO DO SO, AND/OR TO INTENTIONALLY REMOVE, DESTROY, DAMAGE OR DEFACE THIS IMPROVEMENT NOTICE WHILE IT IS IN FORCE.

Information: If you wish to discuss the circumstances giving rise to this notice, in the first instance please contact the Inspector who issued the notice. It is important that you do this well before the end date of the compliance period stated above, if there are circumstances preventing you from complying with the notice as the failure to comply may result in prosecution. Any other queries or correspondence related to this notice should be addressed to the manager at the address shown above.

WORKSAFE NEW ZEALAND

[REDACTED], Wellington 6140 [REDACTED] www.worksafe.govt.nz

New Zealand Government

Review and Appeal Rights

A person affected by the decision of the inspector to issue this notice (or their representative) may apply to WorkSafe for internal review of the decision within the period specified for compliance with the notice, or 14 days after the day on which the decision first came to their notice, whichever is the lesser. The decision to issue the notice may also be appealed to a District Court on the grounds it is unreasonable, but only if it has first been reviewed by WorkSafe and WorkSafe has made a decision on the review.

If there is anything you do not understand about your review and appeal rights, you should consult a lawyer.

SUMMARY OF KEY PROVISIONS IN THE HEALTH AND SAFETY AT WORK ACT 2015

SECTION 101 POWER TO ISSUE IMPROVEMENT NOTICES

An inspector, who reasonably believes that any person is contravening, or is likely to contravene a provision of the Act or regulations, may issue a written notice requiring the person to remedy the contravention.

SECTION 103 COMPLIANCE WITH IMPROVEMENT NOTICES

It is an offence not to comply with this notice within the specified time frame. The penalty is a maximum fine upon conviction of \$50,000 for an individual and \$250,000 for any other person. However, it is not an offence to fail to comply with recommendations in an improvement notice.

SECTION 104 EXTENSION OF TIME FOR COMPLIANCE WITH AN IMPROVEMENT NOTICE

An inspector may, by written notice, extend the compliance period for the improvement notice. The inspector may extend the compliance period only if that period has not ended.

SECTION 114 WORKSAFE MAY VARY OR CANCEL NOTICE

Other than minor changes, a notice issued by an inspector may be varied or cancelled only by WorkSafe, not the inspector.

SECTION 117 DISPLAY OF NOTICE AT WORKPLACE BY PERSON ISSUED WITH NOTICE

A person to whom a notice is issued must, as soon as practicable, display a copy of that notice at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice. It is an offence to fail to comply with this requirement, or to intentionally remove, destroy, damage, or deface a displayed notice while it is in force. The penalty is a maximum fine upon conviction of \$5,000 for an individual and \$25,000 for any other person.

SECTION 118 INSPECTOR MAY DISPLAY NOTICE

An inspector who issues this notice may, either before or after issuing the notice, display a copy of the notice in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice.

SECTION 131 APPLICATION FOR INTERNAL REVIEW

Any person affected by an inspector's decision to issue an improvement notice or to extend the time to comply with it may, within the period specified in the notice for compliance or 14 days, whichever is the lesser, apply to WorkSafe for a review of the decision. The application must be made in the manner and form required by WorkSafe.

SECTION 134 STAY OF A REVIEWABLE DECISION ON INTERNAL REVIEW

If an application is made to WorkSafe for an internal review of a decision, WorkSafe may stay the operation of the decision at its own initiative or on application from the person that has applied for the review. If WorkSafe has not made a decision within 3 working days of receiving an application for a stay then WorkSafe is to be treated as having made a decision to grant the stay.

SECTION 135 APPLICATION FOR APPEAL

A person affected by an inspector's decision to issue a notice or to extend the time to comply with it may, if that decision has been reviewed by WorkSafe, appeal to a District Court against the decision on the grounds that it is unreasonable. The appeal must be lodged within 14 days after the day on which WorkSafe's decision on the review first came to the person's notice.

If WorkSafe varies or cancels the notice, a person affected by that decision may appeal to the District Court against it on the grounds that it is unreasonable. The appeal must be lodged within 14 days after the day on which WorkSafe's decision first came to the person's notice.

Note:

This notice does not exempt or temporarily relieve you from your legal obligations under the Health and Safety at Work Act 2015.

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Outcome of Provisional Improvement Notice review - Nelson Marlborough District Health Board [UNCLASSIFIED]
Date: Wednesday, 21 August 2019 1:49:52 PM
Attachments: [image001.gif](#)
[image002.gif](#)
[image003.gif](#)
[image004.gif](#)
[image005.gif](#)
[Cancellation of PIN - Applicant letter.pdf](#)
[IN NMDHB.pdf](#)

Dear [REDACTED]

I have completed my review of the Provisional Improvement Notice (PIN) issued to Nelson Marlborough District Health Board (NMDHB) by [REDACTED], Health and Safety Representative (HSR), on the 19th July 2019.

The result of the review is that the PIN has been cancelled. Please see the attached letter confirming this and outlining the reasons for cancellation of the PIN. A similar letter has been sent to [REDACTED] and copied to [REDACTED], NZNO Organiser.

During the course of my enquiries whilst undertaking the review I concluded that NMDHB's processes and procedures to engage with workers, including the processes to provide information and feedback to workers on issues raised, are inadequate (the following provides a link to the Health and Safety at Work Act 2015 (HSWA) for your reference – refer to sections 58 – 60 for PCBU duties in relation to engagement with workers:

<http://legislation.govt.nz/act/public/2015/0070/latest/DLM5976660.html>).

I have issued the attached Improvement Notice for NMDHB to address this matter. The notice outlines recommended steps to achieve compliance. Please note the due date for compliance with the Improvement Notice is the 30th January 2020. Please also note your review and appeal rights on the last page of the notice, together with a summary of the key provisions of HSWA in relation to notices. This includes the requirement to display the Improvement Notice at the workplace. (If you require an extension to the due date for compliance, please contact me prior to the 30th January, as I can only extend a notice prior to its expiry).

I have also provided a link to information on SafePlus, which you may find useful. SafePlus is a health and safety improvement toolkit for businesses and other organisations, and looks at three key elements of health and safety: leadership, risk management and worker engagement:

<https://worksafe.govt.nz/managing-health-and-safety/businesses/safeplus/>.

If you wish to discuss any matter arising from this email, please feel free to contact me.

Nga mihi

[REDACTED]
Health and Safety Inspector
General Inspectorate
Nelson Marlborough

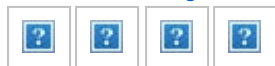
[REDACTED], Ground Floor, Monro Building, Nelson 7010

P [REDACTED]

M [REDACTED]

E [REDACTED]@worksafe.govt.nz

W www.worksafe.govt.nz





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From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Outcome of Provisional Improvement Notice review - Nelson Marlborough District Health Board [UNCLASSIFIED]
Date: Wednesday, 21 August 2019 1:53:42 PM
Attachments: [image001.gif](#)
[image002.gif](#)
[image003.gif](#)
[image004.gif](#)
[image005.gif](#)

Hi [REDACTED]

Thank you so much for your contribution to this process. Be assured we are committed to ensuring our staff have a safe and supported place to work as we wrestle with the daily demands of delivering health care to our community

Regards

[REDACTED]

[REDACTED], Chief Executive, Nelson Marlborough
[REDACTED] Nelson 7042, New Zealand Office: [REDACTED] Cell: [REDACTED] Mail: [REDACTED] [@nmdhb.govt.nz](mailto:[REDACTED]@nmdhb.govt.nz)



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From: [REDACTED] [mailto:[REDACTED]@worksafe.govt.nz]

Sent: Wednesday, 21 August 2019 1:49 PM

To: [REDACTED]

Cc: [REDACTED]; [REDACTED]

Subject: Outcome of Provisional Improvement Notice review - Nelson Marlborough District Health Board [UNCLASSIFIED]

Dear [REDACTED]

I have completed my review of the Provisional Improvement Notice (PIN) issued to Nelson Marlborough District Health Board (NMDHB) by [REDACTED], Health and Safety Representative (HSR), on the 19th July 2019.

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<https://worksafe.govt.nz/managing-health-and-safety/businesses/safeplus/>.

If you wish to discuss any matter arising from this email, please feel free to contact me.

Nga mihi

Health and Safety Inspector
General Inspectorate
Nelson Marlborough

Ground Floor, Monro Building, Nelson 7010

P
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W
@worksafe.govt.nz
www.worksafe.govt.nz



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From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Response to Media request last week
Date: Thursday, 22 August 2019 10:13:08 AM
Attachments: [image001.gif](#)
[image002.gif](#)
[image003.gif](#)
[image004.gif](#)
[image005.gif](#)

Thanks [REDACTED].

I will let the reporter know that:

- Worksafe has cancelled the PIN on those grounds
- this means this is no current PIN

I would expect we'd decline further comment from that point. And continue to decline giving detail about what the PIN was about.

[REDACTED]

From: [REDACTED]
Sent: Wednesday, 21 August 2019 5:26 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Response to Media request last week
Hi [REDACTED]

As far as I am concerned we can say a safety rep issues a PIN, we referred it to Worksafe and the independent body "as legislated". Worksafe investigated and cancelled the PIN in the grounds that NMDHB were doing all that is reasonably practicable.

There is a separate issue that lead to Worksafe identifying further enhancements to the way we provide timely feedback to safety reps and staff in resolving issues. They suggested a need for an enhanced issue resolution procedure. There was also a recommendation that we further improve the management of the safety committees and the safety committee structure. To ensure this happens an improvement notice was issued. This is not for safe staffing.

The safety rep and NZNO already have the result of this finding. [REDACTED] and I intend addressing ED staff at sessions tomorrow. We were going to do it this afternoon but the ED is very busy and we could affect patient care by disrupting them today.

I hope this assists

From: [REDACTED] [[mailto:\[REDACTED\]@worksafe.govt.nz](mailto:[REDACTED]@worksafe.govt.nz)]
Sent: Wednesday, 21 August 2019 1:49 PM
To: [REDACTED] <[\[REDACTED\]@nmdhb.govt.nz](mailto:[REDACTED]@nmdhb.govt.nz)>
Cc: [REDACTED] <[\[REDACTED\]@nmdhb.govt.nz](mailto:[REDACTED]@nmdhb.govt.nz)>; [REDACTED] <[\[REDACTED\]@worksafe.govt.nz](mailto:[REDACTED]@worksafe.govt.nz)>

Subject: Outcome of Provisional Improvement Notice review - Nelson Marlborough District Health Board [UNCLASSIFIED]

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<https://worksafe.govt.nz/managing-health-and-safety/businesses/safeplus/>.

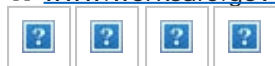
If you wish to discuss any matter arising from this email, please feel free to contact me.

Nga mihi

Health and Safety Inspector
General Inspectorate
Nelson Marlborough

[Redacted], Ground Floor, Monro Building, Nelson 7010

P [Redacted]
M [Redacted]
E [\[Redacted\]@worksafe.govt.nz](mailto:[Redacted]@worksafe.govt.nz)
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